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quarry company and in consideration of a low fixed price, the county guaranteed payment for stone furnished contractors on the roads and one of the contractors was adjudged bankrupt in August, 1913, and in May, 1914, the quarry company notified the county that stone furnished contractor in July and August of 1913 was not paid for, without expressly notifying the county that the quarry company held it liable under the guaranty, such notice was sufficient that the quarry company claimed under its contract of guaranty, notwithstanding the county had money owing the bankrupt's trustee at the time of the notice and did not protect itself, but paid it to trustee.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 779.]

Appeal from Circuit Court, Wise County.

Reversed, and final order entered.

E. M. Fulton, of Wise, for appellant.

C. R. McCorkle, of Wise, for appellee.

RICE *v.* FREELAND.

Sept. 22, 1921.

[109 S. E. 186.]

1. Wills (§ 249*)—Soldier Who Married While in Service, and Who Regarded Wife's Home as His Home, Had His "Residence" Where Wife's Home Was Situated.—Where a soldier while stationed in the state married a resident under an agreement to reside on the state as soon as discharged from the army, and where after the marriage he regarded his wife's home as his home, and repeatedly stated in letters written from France that he intended to make such home his permanent residence, the corporation court of corporation in which the wife lived had jurisdiction of the probate of his will, under Code 1919, § 5247, giving such jurisdiction to court of corporation wherein deceased had a known place of "residence."

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Residence. For other cases, see 13 Va.-W. Va. Enc. Dig. 770.]

2. Wills (§ 72*)—Soldier's Letter to Wife in Anticipation of Being Killed in Service Held a Will, though Not So Intended.—Letter written by husband in military service in France during war to wife, stating that he expected and desired his wife to get his property, written, as shown by contents thereof, in contemplation of possibility of his being killed in action, held a will, even though he did not intend it to constitute a formal will.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 722.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Error to Corporation Court of Roanoke.

Action between Lucy M. Rice and Mary B. Oakes Freeland. To review judgment admitting certain letter to probate as the last will and testament of John C. Freeland, deceased, the former brings error. Affirmed.

Hall, Wingfield & Apperson, of Roanoke, for plaintiff in error.

A. B. Hunt and Staples, Cocke & Hazlegrove, all of Roanoke, for defendant in error.

WILSON BROS. et al. v. BRANHAM et al.

Sept. 28, 1921.

[109 S. E. 189.]

1. Logs and Logging (§ 3 (1*))—Fee Owner of Land May Convey Timber with Unlimited Time for Entry and Removal.—Fee owner of land may convey an absolute estate in standing timber with unlimited time for entry and removal.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 493.]

2. Property (§ 11*)—Owner May Dispose of as He Sees Fit unless Contrary to Public Policy or Positive Rule of Law.—Owner may dispose of property as he sees fit unless intended disposition is contrary to public policy or some positive rule of law.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 940.]

3. Woods and Forests (§ 1*)—Standing Trees Are Realty.—Standing trees are realty.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 219.]

4. Logs and Logging (§ 3 (7*))—Different Portions of Timber Deed Reconciled, if Possible.—In construing a timber deed, the court will take the whole contract together and reconcile, if possible, apparent conflicts between different portions, so as to make it, and every part, conform to and be in harmony with the manifest general intent.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 419.]

5. Logs and Logging (§ 3 (7*))—Grantor Retains Title until Timber Is Cut and Removed within Specified Time.—Where deed conveying standing timber fixes time for removal, the absolute title does not pass out of the grantor until grantee cuts and removes timber within the specified period; the rights of grantee to the standing timber terminating upon the expiration of the specified period.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 506.]

6. Logs and Logging (§ 3 (11*))—Deed Held to Give Unlimited Time for Removal.—Warranty deed conveying specified number of branded trees on land largely nontillable and valuable principally for timber, for which there was no immediate market owing to lack of transportation facilities, giving grantee the right to enter "at any

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.